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Attorneys for Complainant

**BEFORE THE  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 2003 63335

BRIAN THIO  
16311 Magenta Terrace  
Chino Hills, California 91709

**A C C U S A T I O N**

Physical Therapist License No. PT 27597

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California (Board), Department of Consumer Affairs.

2. On or about August 16, 2002, the Board issued Physical Therapist License Number PT 27597 to Brian Thio (Respondent). This license was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2007, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2609 of the Code states:

The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.

5. Section 2660 of the Code states:

The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

“ . . .

“(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapy assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction. . . .”

6. Section 2661 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

7. California Code of Regulations, Title 16, section 1399.20, states:

1 “For the purposes of denial, suspension or revocation of a license, pursuant to  
2 Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be  
3 substantially related to the qualifications, functions or duties of a person holding a license under  
4 the Physical Therapy Practice Act if to a substantial degree it evidences present or potential  
5 unfitness of a person to perform the functions authorized by the license or approval in a manner  
6 consistent with the public health, safety or welfare...”

7 8. Section 2661.5, subdivision (a) of the Code states:

8 “In any order issued in resolution of a disciplinary proceeding before the board,  
9 the board may request the administrative law judge to direct any licensee found guilty of  
10 unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of  
11 the investigation and prosecution of the case.”

12 CAUSE FOR DISCIPLINE

13 (Conviction of a Crime)

14 9. Respondent is subject to disciplinary action under sections 2660,  
15 subdivision (d), and 2661 of the Code, and California Code of Regulations, Title 16, section  
16 1399.20, in that he was convicted of a crime substantially related to the qualifications, functions,  
17 or duties of a physical therapist. The circumstances are as follows:

18 A. On or about June 9, 2003, in a criminal proceeding entitled *People*  
19 *v. Brian Don Thio*, in Superior Court, Los Angeles County, Case No. 3BH00818,  
20 respondent was convicted by a plea of nolo contendere to the crime of driving with .08%  
21 or higher blood alcohol, a violation of Vehicle Code section 23152, subdivision (b), a  
22 misdemeanor.

23 B. On or about June 9, 2003, respondent was placed on probation for  
24 three years. He was ordered to pay fines of \$1,480.00, complete a three month licensed  
25 first-offender alcohol program, complete 26 Alcoholics Anonymous meetings, complete  
26 the Mothers Against Drunk Driving program, and had his driving privilege restricted for  
27 90 days.

28 C. The facts and circumstances surrounding this offense are as

1 follows:

2 On or about May 10, 2003, Beverly Hills police officers responded to a  
3 report of a traffic accident. Respondent was observed sitting behind the steering wheel  
4 trying to start his vehicle which had major front end damage after having hit a tree.  
5 While talking to respondent, one of the officers detected an odor of alcohol on his breath,  
6 and observed his eyes were bloodshot, his speech was slurred, and his coordination was  
7 unsteady and impaired. When asked if he had been drinking, respondent stated he had  
8 five or six beers. He also stated, "I don't normally drink this much and get drunk." He  
9 failed the field sobriety tests. The results of his breath test indicated his blood alcohol  
10 content was .19% / .18%.

11 Respondent was arrested and charged with driving under the influence of  
12 alcohol and driving with .08% or higher blood alcohol, violations of Vehicle Code  
13 section 23152, subdivisions (a) and (b).

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16 PRAYER

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
18 alleged, and that following the hearing, the Physical Therapy Board of California issue a  
19 decision:

- 20 1. Publicly reprimanding Physical Therapist License Number PT 27597,  
21 issued to respondent Brian Thio;
- 22 2. Ordering respondent to pay the Physical Therapy Board of California the  
23 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
24 Professions Code section 2661.5; and,
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3. Taking such other and further action as deemed necessary and proper.

DATED: December 21, 2005

Original Signed By: \_\_\_\_\_  
STEVEN K. HARTZELL  
Executive Officer  
Physical Therapy Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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Thio Accusation.wpd